

JM:JPN  
F.#2008R00474

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ JUL 27 2010 ★

BROOKLYN OFFICE

UNITED STATES OF AMERICA

- against -

SETH LOWENSTEIN,

Defendant.

**CR 10 - 583**  
INDICTMENT  
Cc No. **IRIZARRY, J.**  
(T. 18, U.S.C.,  
§§ 981(a)(1)(c),  
1341, 2 and 3551 et seq.;  
T. 18, U.S.C., § 853(p);  
T. 28, U.S.C., § 2461(c))

THE GRAND JURY CHARGES:

**GOLD, M.J.**

At all times relevant to this Indictment, unless  
otherwise stated:

INTRODUCTION

I. Background

1. The defendant SETH LOWENSTEIN lived in Brooklyn, New York.
2. Victim #1, whose identity is known to the Grand Jury, was a large manufacturer of office and electronic products. Victim #1 paid rebates to its retail customers and resellers, which bought Victim #1's products and then sold them to the public. Victim #1 paid those rebates through various programs, including the "Rewards Program" and the "Trade Up Program."
3. Victim #2, whose identity is known to the Grand Jury, was a global manufacturer of printing and imaging products. Victim #2 paid rebates to resellers who sold Victim #2's products

to the public. One of the programs through which Victim #2 paid rebates was known as "Profit Plus."

## II. The Scheme to Defraud

4. The defendant SETH LOWENSTEIN fraudulently posed as retail customers and sales representatives of resellers to obtain rebates from Victim #1 and Victim #2 (collectively, the "Victims") and submitted rebate claims to the Victims in which he falsely stated that retail customers had purchased the Victims' products.

5. For example, the defendant SETH LOWENSTEIN submitted fake invoices to Victim #1 in connection with his rebate claims. Those invoices falsely identified the name and address of the reseller submitting the rebate claim; the retail customer who supposedly purchased the rebate-eligible product; and the rebate-eligible product supposedly purchased by the retail customer. LOWENSTEIN submitted the invoices to Victim #1 as proof that retail customers purchased rebate-eligible products. The purchases of Victim #1's products referenced in the invoices were fictitious, and LOWENSTEIN was not entitled to the rebates.

6. In connection with Victim #2's "Profit Plus" rebate program, the defendant SETH LOWENSTEIN similarly submitted claims for rebates for sales of Victim #2's products that never occurred.

7. The defendant SETH LOWENSTEIN submitted rebate requests to the Victims using various names, including the names of fifteen individuals, whose identities are known to the Grand Jury.

8. The defendant SETH LOWENSTEIN also used various company names when he submitted his fraudulent rebate claims, including the names of eleven companies, whose identities are known to the Grand Jury. LOWENSTEIN used these company names on invoices as both purported resellers and retail customers of the Victims' products.

9. The defendant SETH LOWENSTEIN also used multiple mailing addresses (the "Mailing Addresses") in connection with the scheme. The Mailing Addresses included the following:

- 1403 44<sup>th</sup> Street, Brooklyn, New York;
- 6402 18<sup>th</sup> Avenue, Brooklyn, New York;
- 5904 18<sup>th</sup> Avenue, Brooklyn, New York;
- 6801 20<sup>th</sup> Avenue, Brooklyn, New York;
- 2030 S. 3<sup>rd</sup> Street, Jacksonville, Florida;
- 10920 Baymeadow Road, Jacksonville, Florida; and
- 1973 60<sup>th</sup> Street, Brooklyn, New York.

10. The Mailing Addresses were mail drops, each of which received mail and packages on behalf of customers. In connection with the scheme, the defendant SETH LOWENSTEIN often received mail at the Mailing Addresses, as well as additional

addresses in St. Paul, Minnesota, Cadillac, Michigan and Brooklyn, New York.

11. The Victims paid in excess of \$400,000 in rebates to the defendant SETH LOWENSTEIN in connection with this scheme. The Victims paid many of the rebates by check, many of which were mailed from the Victims to addresses in Brooklyn, New York.

COUNTS ONE THROUGH THREE  
(Mail Fraud)

12. The allegations contained in paragraphs 1 through 11 are realleged and incorporated as if fully set forth in this paragraph.

13. In or about and between 1998 and 2008, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant SETH LOWENSTEIN did knowingly and intentionally devise a scheme and artifice to defraud the Victims and others and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice and attempting to do so, did place and cause to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the United States Postal Service, as set forth below:

<u>COUNT</u>	<u>APPROXIMATE MAILING DATE</u>	<u>DESCRIPTION OF MAILING</u>
ONE	November 23, 2005	Two retail customer invoices (invoice numbers 656963 and 657085) sent by Priority Mail from Brooklyn, New York to Victim #1's Rewards Program office in Grand Rapids, Minnesota
TWO	August 28, 2007	Rebate request concerning retail customer invoice number 6398758 sent by Priority Mail from Brooklyn, New York to Victim #1's Trade Up Program headquarters in Grand Rapids, Minnesota
THREE	September 5, 2007	Rebate check (check number 811587) sent by U.S. mail from Victim #2's Profit Plus headquarters in Dayton, Ohio to Company #7 at 6402 18 <sup>th</sup> Avenue, Brooklyn, New York

(Title 18, United States Code, Sections 1341, 2 and 3551 et seq.)

#### CRIMINAL FORFEITURE

14. The United States hereby gives notice to the defendant that, upon his conviction of one or more of the offenses alleged in Counts One through Three of this Indictment, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of any such offense to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offense, including but not limited to a sum of money representing the amount of proceeds obtained as a result of the offense.

15. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value;  
or

(e) has been commingled with other property which cannot be divided without difficulty;


it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any

other property of such defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL

  
FOREPERSON

  
LORETTA E. LYNCH  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

No.

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**UNITED STATES DISTRICT COURT**

*EASTERN District of NEW YORK*

CRIMINAL DIVISION

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**THE UNITED STATES OF AMERICA**

vs.

***Seth Lowenstein,***

Defendant.

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**INDICTMENT**

(T. 18, U.S.C., §§ 981(a)(1)(c), 1341, 2  
and 3551 et seq.; T. 21, U.S.C., § 853(p);

T. 28, U.S.C., § 2461(c))

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*A true bill.*

*[Signature]* Foreman

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Filed in open court this \_\_\_\_\_ day,

of \_\_\_\_\_ A.D. 20 \_\_\_\_\_

\_\_\_\_\_  
Clerk

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Bail, \$ \_\_\_\_\_

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***John P. Nowak, Assistant U.S. Attorney (718-254-6097)***